

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**HELEN MOODY and CATHERINE)
KEATON,)**

Plaintiff,)

v.)

Case No. 2:07-cv-318-A

**LOWE'S HOME CENTERS, INC.,)
ALLSTATE INSURANCE)
COMPANY, and SHAWN DEE)
THORNTON,)**

Defendants.)

AMENDED NOTICE OF REMOVAL

COMES NOW Defendant Lowe's Home Centers, Inc., by and through counsel, and hereby files and serves this Notice of Removal, removing this action from the Circuit Court of Montgomery County, Alabama to the United States District Court for the Middle District of Alabama, Northern Division. In support thereof, the Defendant states as follows.

1. This civil action was initiated in the Circuit Court of Montgomery County, Alabama as case number CV 07-900005. The Complaint was served upon this Defendant on March 23, 2007 . A true and accurate copy of the Complaint is attached hereto as Exhibit "A."

2. This Notice of Removal is filed and served within 30 days of the date of service as described above.

3. This action is being removed to Federal District Court on the basis of diversity jurisdiction as allowed by 28 U.S.C. § 1332.

4. The United States District Court for the Middle District of Alabama, Northern Division, has original jurisdiction under 28 U.S.C. § 1332. This action is removable under 28 U.S.C. § 1441.

5. This Court has jurisdiction under 28 U.S.C. § 1332, and removal is proper pursuant to 28 U.S.C. § 1441, because there is diversity of citizenship. The Plaintiffs Helen Moody and Catherine Keaton are citizens of the State of New York. Defendant Lowe's Home Centers, Inc., is a North Carolina corporation, with its home office and principle place of business North Carolina; Defendant Allstate Insurance is a Illinois corporation with a principle place of business in Chicago, Illinois; and Defendant Shawn Dee Thornton is a resident of Montgomery, Alabama. As such, complete diversity of citizenship exists.

6. The amount in controversy of this matter exceeds the sum of \$75,000. According to the Plaintiffs' Complaint, both Helen Moody and Catherine Keaton claim to have suffered severe personal injuries in the automobile accident made the basis of this lawsuit. (See paragraph 15 of the Plaintiffs' Complaint, attached hereto as Exhibit "A"). Further, both Plaintiffs claim to have incurred substantial medical expenses and have sustained permanent disabilities. (See paragraph 18 of the Plaintiffs' Complaint). Based on representations of Plaintiffs' counsel, defense counsel believes that the medical bills incurred to date are in the range of at least \$30,000. Further, both of the Plaintiffs have claimed a

right to recover punitive damages from the Defendants. As such, the amount in controversy exceeds \$75,000.

7. A copy of said Notice of Filing Notice of Removal was previously provided to this Court as Exhibit “B” to the original Notice of Removal.

8. This Notice is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required by 28 U.S.C. § 1446(a) as amended, which eliminates the requirement for a verified petition.

9. A copy of all pleadings, papers, Notices, and Orders, which have been filed in the Circuit Court of Montgomery County, Alabama which have not previously been provided to this Court, are now attached hereto as Exhibit “A.”

10. For the reasons stated herein, this Federal District Court has jurisdiction of this case pursuant to 28 U.S.C. § 1332 and the case is properly removed pursuant to 28 U.S.C. 1441.

Respectfully submitted,

s/JOSEPH E. STOTT

ASB-4163-T71J

Attorney for Defendant Lowe’s Home Centers, Inc.

OF COUNSEL:

SCOTT, SULLIVAN, STREETMAN & FOX, P.C.

2450 Valleydale Road

Birmingham, AL 35344

(205) 967-9675 - Telephone

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**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**HELEN MOODY and CATHERINE)
KEATON,)**

Plaintiff,)

v.)

Case No. _____

**LOWE'S HOME CENTERS, INC.,)
ALLSTATE INSURANCE)
COMPANY, and SHAWN DEE)
THORNTON,)**

Defendants.)

CERTIFICATE OF SERVICE

I hereby certify that I have on April 26, 2007 served a copy of the foregoing on the following attorneys of record via Efile and/or by placing a copy of same in the U.S. Mail:

Jason E. Gammons, Esq.
Mark M. Hogewood, Esq.
Wallace, Jordan, Ratliff & Brandt, LLC
Post Office Box 530910
Birmingham, AL 35253

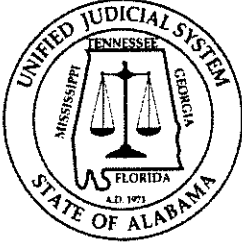
Celest Patton Armstrong, Esq.
Varner & Associates
Suite 200, 2600 Meadow Brook Street
2600 Corporate Drive
Birmingham, AL 35242

Mr. Shawn Dee Thornton
407 Green Ridge Road
Montgomery, AL 36109

s/Joseph E. Stott

OF COUNSEL

EXHIBIT “A”



AlaFile E-Notice

03-CV-2007-900005.00

To: CELESTE ARMSTRONG
CARM3@ALLSTATE.COM

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

HELEN MOODY ET AL v. LOWE'S HOME CENTERS, INC. ET AL
03-CV-2007-900005.00

The following answer was FILED on 2/5/2007 10:45:25 AM

Notice Date: 2/5/2007 10:45:25 AM

MELISSA RITTENOUR
CIRCUIT COURT CLERK
MONTGOMERY COUNTY, ALABAMA
251 S. LAWRENCE STREET
MONTGOMERY, AL 36102

334-832-4950
melissa.rittenour@alacourt.gov



ELECTRONICALLY FILED
2/5/2007 10:45 AM
CIRCUIT COURT OF
MONTGOMERY COUNTY, ALABAMA
MELISSA RITTENOUR, CLERK

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

HELEN MOODY and CATHERINE
KEATON,

Plaintiffs,

v.

LOWE'S HOME CENTERS, INC.,
ALLSTATE INSURANCE COMPANY
and SHAWN DEE THORNTON,

Defendants.

CIVIL ACTION NUMBER:

CV 2007 900005

ANSWER

COMES NOW the defendant, Allstate Insurance Company, and answers the complaint as follows, separately and severally:

1. The defendant admits that it provides UIM (underinsured motorist) coverage to the plaintiff Helen Moody subject to the terms and conditions of the applicable Allstate policy. Defendant denies that coverage is available to the plaintiff Catherine Keaton.
2. The general issue is plead, and, to the extent not admitted in the preceding paragraph, each and every material allegation contained in the complaint is denied, and strict proof thereof is demanded.
3. The defendant avers that the defendant's UIM coverage available to plaintiff Moody is secondary to the UIM coverage afforded to the plaintiff by USAA.
4. Defendant denies that the plaintiff is entitled to recover the items and amount of damages alleged in the complaint and demands strict proof thereof.
5. Defendant avers that it is entitled to either a set-off or credit to the extent of all available liability limits of any other defendant.

6. Defendant reserves the right to amend this answer.

TRIAL BY STRUCK JURY IS DEMANDED

Bys/Celeste Patton Armstrong
Celeste Patton Armstrong
(PAT044)
Attorney for Defendant
Allstate Insurance Company

OF COUNSEL:

Varner & Associates

2600 Meadow Brook South, Suite 200
at 2600 Corporate Drive
Birmingham, Alabama 35242
Telephone: (205) 981-3700

CERTIFICATE OF SERVICE

This is to certify that I have on this date served a copy of the within and foregoing upon:

Jason W. Gammons, Esquire
Mark M. Hogewood, Esquire
Post Office Box 530910
Birmingham, Alabama 35253

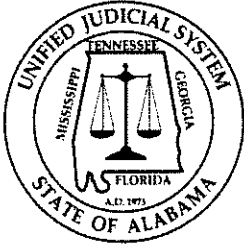
Lowe's Home Center, Inc.
Attn: Registered Agent
2000 Interstate Park Drive, Suite 204
Montgomery, Alabama 36109

Shawn Dee Thornton
407 Green Ridge Road
Montgomery, Alabama 36109

by placing a copy of same in the United States Mail in a properly addressed envelope with sufficient postage thereon to ensure delivery.

This 5th day of February, 2007.

s/Celeste Patton Armstrong
OF COUNSEL



AlaFile E-Notice

03-CV-2007-900005.00

To: ARMSTRONG CELESTE PATTON
CARM3@ALLSTATE.COM

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

HELEN MOODY ET AL v. LOWE'S HOME CENTERS, INC. ET AL
03-CV-2007-900005.00

The following discovery was FILED on 2/5/2007 10:47:59 AM

Notice Date: 2/5/2007 10:47:59 AM

MELISSA RITTENOUR
CIRCUIT COURT CLERK
MONTGOMERY COUNTY, ALABAMA
251 S. LAWRENCE STREET
MONTGOMERY, AL 36102

334-832-4950
melissa.rittenour@alacourt.gov



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Defendants.

CIVIL ACTION NUMBER:

CV 2007 900005

NOTICE OF SERVICE OF DISCOVERY MATERIAL

I hereby certify that a copy of the following designated discovery material has this date been served upon counsel for all parties to this action by United States mail, first class postage prepaid and properly addressed:



Interrogatories and Request for Production
of Documents to Plaintiffs

Bys/Celeste Patton Armstrong
Celeste Patton Armstrong (PAT044)
Attorney for Defendant
Allstate Insurance Company

OF COUNSEL:

Varner & Associates

2600 Meadow Brook South, Suite 200
at 2600 Corporate Drive
Birmingham, Alabama 35242
(205) 981-3700

CERTIFICATE OF SERVICE

This is to certify that I have on this date served a copy of the within and foregoing upon:

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Mark M. Hogewood, Esquire
Post Office Box 530910
Birmingham, Alabama 35253

Lowe's Home Center, Inc.
Attn: Registered Agent
2000 Interstate Park Drive, Suite 204
Montgomery, Alabama 36109

Shawn Dee Thornton
407 Green Ridge Road
Montgomery, Alabama 36109

by placing a copy of same in the United States Mail in a properly addressed envelope with sufficient postage thereon to ensure delivery.

This 5th day of February, 2007.

s/Celeste Patton Armstrong
OF COUNSEL